

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
Civil Action No. 07-207**

ADREA THEODORE,

Plaintiff,

V.

**UNIVERSITY OF NORTH CAROLINA,
UNIVERSITY OF NORTH CAROLINA
HEALTH CARE SYSTEM, a/k/a
UNIVERSITY OF NORTH CAROLINA
HOSPITALS, JOHN T. BENJAMIN in
his individual and official capacity, and
ALAN D. STILES, in his individual and
official capacity**

Defendants.

**DEFENDANTS' PETITION FOR
REMOVAL OF CIVIL ACTION
07 CVS 02139 FROM DURHAM COUNTY
CIVIL SUPERIOR COURT**

**TO: The United States District Court for
the Middle District of North Carolina
United States Courthouse
United States District Court
323 East Chapel Hill Street
Durham, NC 27702**

PURSUANT to 28 U.S.C. §§ 1441(a) and (b), Defendant University of North Carolina, University of North Carolina Health Care System, a/k/a University of North Carolina Hospitals, John T. Benjamin in his individual and official capacity, and Alan D. Stiles, in his individual and official capacity, hereinafter referred to collectively as “Defendants”, hereby petitions for removal of Civil Action 07 CVS 02139 from Durham County Superior Court to this Honorable Court. In support of the petition, Defendants shows the Court the following:

- 1 On 16 February 2007, Adrea Theodore, filed in Durham County Superior Court a civil action against Defendants.
- 2 The Complaint purports to allege several causes of action which arise under federal

law, specifically of the provisions of intentional discrimination on the basis of race against the plaintiff under 42 U.S.C. § 1981, the Fourteen Amendment to the US constitution and 42 U.S.C. § 1983 on the basis of sex, pregnancy, and race, along with a claim alleging willful violation of the Family Medical Leave Act, 29 U.S.C. § 2601.

3 Because plaintiff purports to bring claims arising under the laws of the United States, this Court has original jurisdiction over those claims pursuant to 28 U.S.C. § 1331.

4 Because those claims are within this Court's original jurisdiction, Defendants may remove the action to this Court pursuant to 28 U.S.C. §§ 1441(a) and (b).

5 Copies of all process and pleadings in possession of Defendants' counsel are attached to this petition, as Exhibit A. Defendants are also filing, in this Court and in the Durham County Superior Court, formal notice of this petition for removal, as required by 28 U.S.C. § 1446(d), and are causing, pursuant to Local Rule 3.1(b), a complete copy of the state court file to be filed in this Court.

6 Because Defendants received the Complaint on 21 February 2007, this petition for removal is timely. 28 U.S.C. § 1446(b) (thirty days after receipt of pleading).

WHEREFORE, Defendants ask that Civil Action 07 CVS 02139 be removed from the Durham County Superior Court, to the United States District Court for the Middle District of North Carolina.

Respectfully submitted this 19th day of March, 2007.

ROY COOPER
Attorney General

/s/ John W. Mann
John W. Mann
Assistant Attorney General
N. C. State Bar No. 25716
N. C. Department of Justice
P. O. Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6920
Fax: (919) 716-6764

CERTIFICATE OF SERVICE

I certify that the foregoing **DEFENDANTS' PETITION FOR REMOVAL OF CIVIL ACTION 07 CVS 02139 FROM DURHAM COUNTY SUPERIOR COURT** was electronically filed on 19 March 2007 with the Clerk of Court using the CM/ECF system. I also hereby certify that I have mailed the document to the following non CM/ECF participants:

Caitlyn T. Fulghum
100 East Parrish Street
Suite 300
Durham, NC 27701
Representing Plaintiff

This 19th day of March, 2007.

/s/ John W. Mann
John W. Mann
Assistant Attorney General